

MEMO ENDORSED

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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HOWARD K. STERN,

Plaintiff,

- against -

RITA COSBY, HACHETTE BOOK GROUP USA,
INC. d/b/a Grand Central Publishing, and JOHN OR
JANE DOE,

Defendants.
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ORDER

07 Civ. 8536 (DC)

Chin, D.J.

In papers filed October 16, 2007, plaintiff Howard K. Stern moved by order to show cause for a preliminary injunction enjoining defendants from interfering with fact witnesses in this case and from destroying or altering evidence. On October 18, 2007, per order of the Court, a conference was held to discuss plaintiff's application and to set a schedule. At that conference, plaintiff was represented by L. Lin Wood, Esq. of Powell Goldstein, LLP and Lisa DiPoala Haber, Esq. from Gilberti Stinziano, Heintz & Smith, P.C. Defendant Cosby was represented at the conference by Elizabeth A. McNamara, Esq. and Elisa L. Miller, Esq. of Davis Wright Tremaine, LLP. Defendant Hachette was represented by Douglass B. Maynard, Esq. of Akin Gump Strauss Hauer & Feld, LLP.

Counsel agreed that entry of an order regarding preservation of evidence and interference with fact witnesses, applicable to all parties, would be appropriate. Given counsel's agreement regarding the entry of such an order, and having considered the proposed order presented by counsel, IT IS HEREBY ORDERED that all parties to this action, their respective agents,

representatives, servants, employees and attorneys, and all persons acting in concert with them, pending the trial and final determination of this action, shall be enjoined from:


- (1) influencing, or attempting to influence, the testimony of any fact witness in this case, through payments, or the facilitation of payments, of money or other consideration, to any fact witness or to his or her representative; and,
- (2) destroying, causing others to destroy, or allowing the destruction of, evidence relevant to this action, including any evidence relating to any attempts to influence the testimony of fact witnesses, which evidence includes but is not limited to audio, video, digital and any other recordings, devices used to make such recordings, and any and all documents relating thereto, including, but not limited to, correspondence, computer files and e-mails.

Notwithstanding the terms of this injunction, it is FURTHER ORDERED that counsel of record shall not be enjoined from issuing the payment of witness fees as provided for, and not prohibited, by law.

Dated: New York, New York

October 25, 2007

SO ORDERED:



DENNY CHIN
United States District Judge